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THE SITUATION CONCERNING WESTERN SAHARA

Report of the Secretary-General

I. INTRODUCTION

1. The present report is submitted in pursuance of Security Council resolution 1017 (1995) of 22 September 1995. In paragraph 4 of that resolution, the Council requested the Secretary-General, in close consultation with the parties, to produce specific and detailed proposals to resolve the problems hindering the completion of the identification process in the framework of its relevant resolutions, in particular resolution 907 (1994) of 29 March 1994 relating to the compromise proposal of the Secretary-General (S/26185), and resolution 1002 (1995) of 30 June 1995 relating to the recommendations of the Security Council mission (S/1995/498), and to report on the outcome of his efforts in that regard by 15 November 1995.

II. CONSULTATIONS

2. The basic obstacle to continuing and completing the identification process relates to certain tribal groups and to persons not resident in the Territory, in whose identification the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO) does not agree to participate and, in many instances, has no sheikh, or alternate, to propose. Identification has hitherto involved the participation of a sheikh or alternate from each side and the presence of representatives of the two parties and of an Organization of African Unity (OAU) observer. The operation has been hindered by the inability or unwillingness of any one party to make a sheikh or alternate available at a given time and place. As a result, the identification process has been slow and uneven and in the last few weeks has virtually come to a halt.

3. In my report of 8 September 1995 (S/1995/779), I stated that the United Nations Mission for the Referendum in Western Sahara (MINURSO) had an obligation to consider all applications which had been correctly submitted. The essence of the identification process was, firstly, to establish the personal identity of the applicant and, secondly, to determine whether he or she qualified for inclusion in the electoral roll under one of the five eligibility criteria.

Bringing a person to be identified did not prejudge the decision. To enable MINURSO to meet its obligation in circumstances where the Frente POLISARIO was unwilling or unable to make a sheikh available, I suggested that identification should be based on documentary evidence.

4. I explained my proposal in more detail at a meeting on 10 October 1995 with Mr. Driss Slaoui, Counsellor to His Majesty King Hassan II of Morocco, Mr. Driss Basri, Minister of State for the Interior, General Housni Bensliman and Ambassador Ahmed Snoussi. I also instructed my Acting Special Representative, Mr. Erik Jensen, to communicate my proposal to members of the Security Council during informal consultations on 11 October, and directly to the Frente POLISARIO leadership upon his return to the region. This he did on 19 October at a meeting at Tindouf with Mr. Mahfoud Ali Beiba. On 27 October, in a letter to the President of the Security Council, I provided further elaboration of my proposal (S/1995/924).

5. In a letter dated 26 October, Mr. Ali Beiba assured my Acting Special Representative of the Frente POLISARIO's willingness to cooperate with the programme that the Secretary-General would establish to identify all persons whose applications had been received in the Territory and outside, in the camps and the Tindouf region and in Mauritania, in conformity with the settlement plan.

6. The Government of Morocco informed my Acting Special Representative of its unwillingness to accept a process that would differentiate between different groups of applicants and reiterated its insistence on oral testimony. In communications to my Acting Special Representative, dated 25 and 29 October 1995, Mr. Basri rejected a change in procedure which his Government believed was prejudicial to the inalienable rights of Western Saharans to equal treatment by the Identification Commission and to the interests of Morocco. The distinction proposed between the treatment of members of 85 subfractions and other applicants would amount to discrimination and was, in Morocco's view, contrary to the settlement plan. Morocco considered this suggested "simplification" of the procedure as a radical departure from the settlement plan and the instructions to the Identification Commission which recognized the specific nature of Saharan society and the role of oral testimony alongside various types of documentary evidence. The Minister reiterated Morocco's reservations regarding documents issued by the former Spanish administration of the Territory.

7. I propose, therefore, that the operation can be completed only with the adoption of the following procedure. In accordance with established practice and agreed principles, both parties will be invited to present a sheikh, or alternate, of the subfraction concerned and to be represented during the identification process. An OAU observer is also expected to attend. When two sheikhs, or alternates, are present, one from each side, identification will take place according to the normal proceeding. When one party does not, for whatever reason, provide a sheikh or alternate, identification will take place on the basis of appropriate documentation, with the assistance of the one sheikh present. In the case that neither party is willing or able to make available a sheikh or alternate, identification will be based on documentary evidence only.

8. The settlement plan provides for the lodging of appeals against the inclusion or exclusion of any names in the list of eligible voters established by the Identification Commission. This should serve as additional guarantee to both parties. This procedure is further detailed in the terms of reference of the Identification Commission (S/26185).

9. On 9 November, I instructed my Acting Special Representative to convey my intention orally to the two parties. On 13 November, he met with Mr. Basri in Rabat, and on 14 November with Mr. Ali Beiba near Tindouf.

10. In a communication from Mr. Basri to my Acting Special Representative dated 13 November, the Government of Morocco wished to be assured that the sheikh, when the only one present, would contribute to the identification in exactly the same manner as when there were two. It again emphasized the "privileged" place of oral testimony in the identification process. Having already rejected any attempt to limit valid documents to those issued by the Spanish authorities, it considered the reference to appropriate documentation as too vague and therefore liable to a restrictive interpretation. It further found unacceptable the proposal that identification could take place without the participation of any sheikh. In its view, this had no basis in the settlement plan and instructions to the Identification Commission, since it would exclude oral testimony entirely.

11. In a letter dated 18 November, Mr. Mohamed Abdelaziz, Secretary-General of the Frente POLISARIO, stated that the Frente POLISARIO would not subscribe to my new proposal, which it considered as a reversal of the earlier approach. It could not accept the pretext offered of a so-called departure from the framework of the settlement plan or a refusal of the other party to subscribe to the proposal in my letter to the Security Council of 27 October (S/1995/924). Mr. Abdelaziz stressed that the Frente POLISARIO had not been consulted in the formulation of the eligibility criteria and that its position had not been taken into account in the compromise concerning the interpretation and application of the criteria. In the Frente POLISARIO's view, the implementation of my new proposal would again give Morocco an added advantage and the opportunity to introduce, by means of a sheikh of its choice and of its own documents, 135,000 applicants who had no ties with Western Sahara. This would be tantamount to holding a referendum for a people other than the Western Saharans. Adoption of such an approach would prompt the Frente POLISARIO to draw the "appropriate" conclusions as to its involvement with regard to the settlement plan. Mr. Abdelaziz warned that the stability of the North African region was at stake.

III. IDENTIFICATION

12. As of 18 November 1995, all 233,487 applications have been processed (176,533 in the Territory and on the Moroccan side, 42,468 in the camps and Tindouf area, and 14,486 in Mauritania). Of those, 75,794 have been convoked (46,701 in the Territory and 29,093 in the camps), of which 58,947 have been identified (37,708 in the Territory and 21,239 in the camps), as shown in the annex to the present report. In spite of repeated convocations, the number of

applicants to come forward varies from 75 per cent of those convoked in the camps to 80 per cent in the Territory.

13. A total of 157,693 applicants remain. As has been the case, the number of persons coming forward is unlikely to exceed 80 per cent of those convoked. Experience has shown that it is technically possible for at least 3,000 persons to be identified per month at any one centre. If identification is allowed to proceed in accordance with the above procedures and without interruption, a total of 12 centres should, therefore, be able to complete identification within about four months, at a rate of 36,000 applicants per month.

14. The Government of Mauritania has confirmed its agreement to the opening of an identification centre at Atar, which is almost equidistant from Nouadhibou and Zouerate and close to the border area where many applicants reside. A technical mission has completed its work and preparatory arrangements are being made, although conditions are difficult.

IV. CONCLUSIONS

15. The identification will continue as hitherto in the case of 85 out of 88 subfractions which are listed in the census of 1974 and for which a list of sheikhs and alternates has already been established. However, the absence of a sheikh, representative or observer will not prevent identification from proceeding after the schedule for identification has been duly communicated to the parties, the convocation lists have been issued and the hours of work announced.

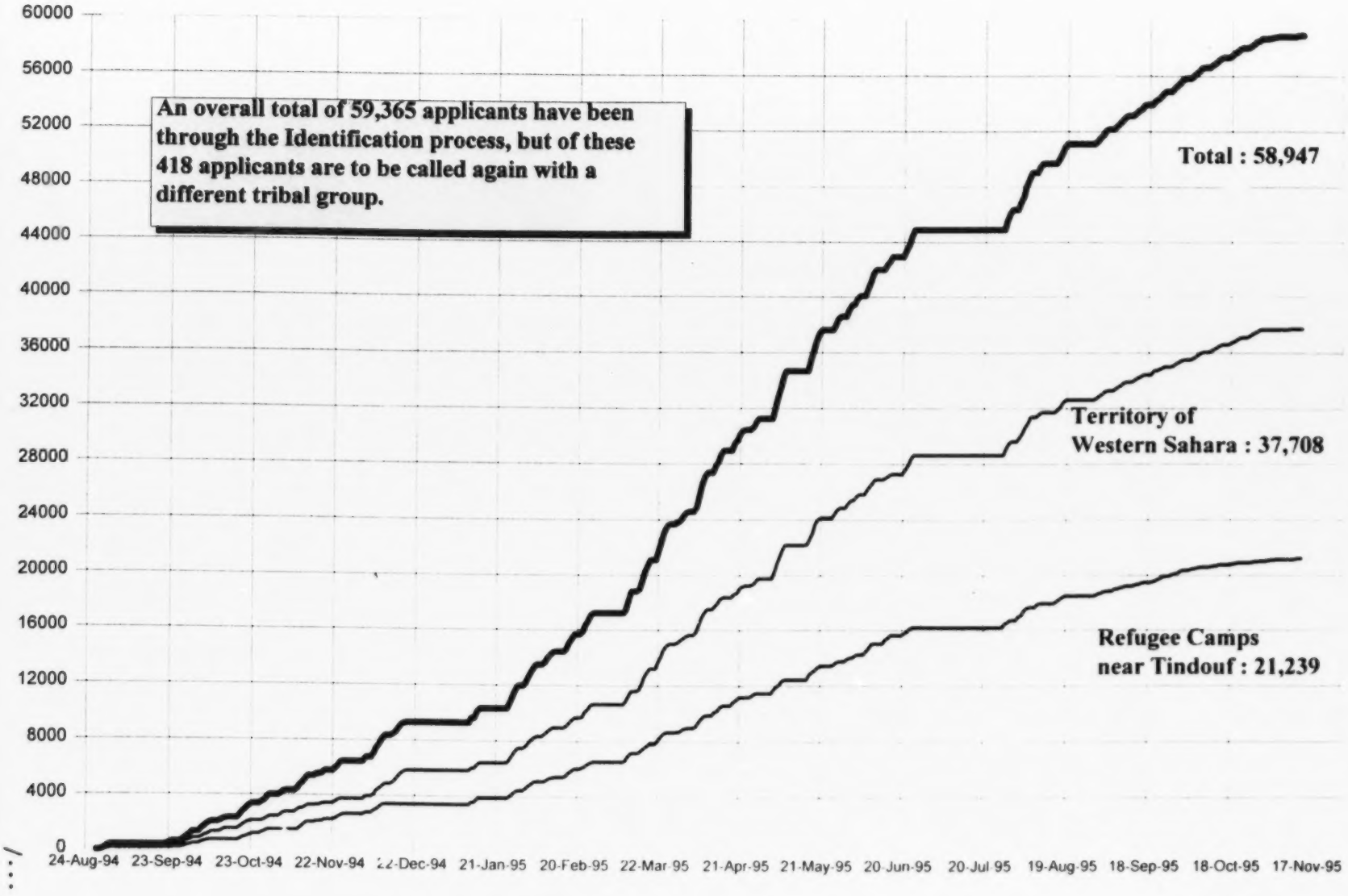
16. In the case of the remaining three census groups (H41, H61 and J51/52) and in those instances where identification takes place outside the Territory and the Tindouf area, identification would proceed with the participation of one side only. Both parties would be invited to provide sheikhs and representatives; it is my hope that both would be represented even in circumstances when they do not provide a sheikh. In all cases there will be no change in the procedure already established, which reflects the relevant provisions of the settlement plan (S/21360 and S/22464) and compromise proposal (S/26185, annex I) as regards oral testimony and documentary evidence. Paragraphs 14 to 23 of the compromise proposal describe the nature of admissible documentation. It will be up to the Identification Commission to determine the validity of the oral testimony and of the documentary evidence and to decide on the merits of each applicant to be included in the electoral roll. The Identification Commission will be able to carry out its work only if both parties place their trust in its judgement and integrity.

17. Neither party is likely to be satisfied with my proposal to proceed with the identification in the manner described in paragraph 7 of the present report. Morocco wants to limit, to the extent possible, the role of documentary evidence and give privilege to that of oral testimony. The Frente POLISARIO considers that the implementation of the new approach will allow for the introduction of applicants who have no ties with Western Sahara. I have, however, concluded that the new approach is the only way the process can be carried forward. I hope that both parties will be persuaded to cooperate and give the

identification operation a chance. Should it fail to proceed with the necessary speed, it will be my intention, as requested by the Security Council in its resolution 1017 (1995), to present for the consideration of the Council alternative options, including the possibility of MINURSO's withdrawal.

18. In closing, I should like to thank my Acting Special Representative for his untiring efforts to move the process forward and those Member States that have assisted in the consultations with the parties.

Progress in Identification



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